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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,614	06/22/2001	Daniel Flesner	19312.0015	4358

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EXAMINER

VU, TUAN A

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/886,614	Applicant(s) FLESNER ET AL.	
	Examiner Tuan A Vu	Art Unit 2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>see 6)</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet.</u> |

Continuation of Attachment(s) 6). Other: IDS 20030317;20040322; 20040405; 20040416; 20040823;20040902; 20040907; 20041112 .

DETAILED ACTION

1. This action is responsive to the application filed 6/22/2001.

Claims 1-27 have been submitted for examination.

Information Disclosure Statement

2. The information disclosure statement filed 12/13/2004 does not fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file listing that a document of 132 pages long is listed therein, however, such document referred to therein has not been physically located or accessible at the time of the prosecution, hence has not been considered.

To expedite the prosecution, Examiner has considered all the IDS papers that happen to be available; and would defer considering this missing document until whenever it is found. Until such time, if it is determined that said document cannot be retrieved, the Applicant would be notified accordingly. It is also noted that the Office should make the effort so that this document become accessible for consideration in the course of the prosecution.

Claim Objections

3. Claims 1-2, 4-5, 7, 9-11, 13-14, 16, 18-20, 22, 23, 25 and 27 are objected to because of the following informalities: the use of the term 'operable to' (e.g. cl. 1 - li. 6, 10) is misleading and needs to be adjusted because the '-able' suffix can lend to interpretation that a fact or an action can possibly not take place as opposed to take place all the time. These misuse of terms will be interpreted in the sense that the object in question 'operate' all the time.

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4. Claims 1, 10 are objected because the limitation 'are executable' (li. 15, li. 19, of respective claims) also lead to misinterpretation as mentioned above.

5. Claims 1, 10, 19 are objected to because of the following: the sentence construct in 'whereby, an appropriate update server ... is based on host identification of a site hosting the portal' does seem awkward to understand in light of the selection limitation recited earlier in the claim. As a possible suggestion and as presently interpreted, the claim should be adjusted to put forth or read as though an appropriate update server is selected based on some identification because 'whereby, a ... server is based on host identification ...' does not make much semantic and/or syntactic sense.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-2, 4-5, 7, 9-11, 13-14, 16, 18-20, 22, 23, 25 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 1, 10 recite 'upon installation on the network, the classes are executable by a processor...' (cl. 1, lines 14-15) and '... the classes are executable by a processor ...' (cl. 10, lines 18-19). There is no substantial antecedence to 'the classes' term so as to teach the Examiner which of the previously recited elements in the claim is referred to. Further, the limitation 'upon installation on the network' is obscure as to which of the recited entity is performing the installation and which is being installed. Examiner will interpret this

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indefiniteness at best as though any one or more objects previously recited are susceptible of being executed by a computer on which they are installed.

9. Claims 1-2, 4-5, 7, 9-11, 13-14, 16, 18-20, 22, 23, 25 and 27 should be readjusted so that the limitation 'operable to' and 'executable' as mentioned above in the 'Claim Objections' section be corrected and enable a better definition of the scope of the invention; thus leaving out the possibility/construing that some action or entity does not take place, making thereby an indefinite invention.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 9, 10, 18, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood, USPN: 6,704,873 (hereinafter Underwood).

As per claim 1, Underwood discloses a portal server framework for modifying modules within a portal on a computer network (Fig. 58-59, 124-127 – Note: gateway or Firewall reads on portal), comprising:

an intermediate class configured to instantiate an intermediate object, the intermediate object operable to hold a reference to a current implementation of an instantiated object (e.g. Fig. 1D; col. 20, line 39 to col. 21, line 45; *wrapper* - Fig. 123 – Note: adapter layer wherein a DCOM connector template is created reads on instantiate an intermediate object), the instantiated object encapsulating information of a particular type on the computer network (e.g. Fig. 1E; Fig.

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2-5 – Note: object-oriented component being instantiated via a DCOM connector inherently disclose data encapsulation); and

an transaction service subsystem class configured to instantiate an transaction subsystem object (e.g. Fig. 5-9), the transaction service subsystem object operable to select an requested transaction implementation of the instantiated object from a set of servers (e.g. Fig. 32-36; Fig. 58-59; Fig. 127 – Note: App server and database server and routing to prioritized servers in combination thereof reads on set of servers being selectively connected to in order to fulfill the request to provide instantiated objects from the *Activity* of Fig. 5, 9B);

an appropriate server in the set of update servers from which to select the transaction service requested implementation of the instantiated object is selected based on host identification information of a site hosting the portal(Note: the identification of a machine or a host server, i.e. IP address, is inherently disclosed because without any it there is way a remote machine can be communicated with), and upon their installation on the network, the instantiated classes are executable by a processor on the computer network (Note: this teaching is implicitly disclosed because when a requested object gets integrated into the requested client, their use at such execution environment is implied).

But Underwood does not disclose that the transaction service subsystem class or subsystem object is operable to select an updated implementation of the instantiated object from an update server. A transaction via a gateway to request a service like upgrade object or software latest version was a known concept at the time of the invention, when business resources are requested by the users as in Underwood's change request paradigm for objects retrieved from database or versioning repository (see Fig. 75-76A; 77-83, 93-111). It would

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have been obvious for one of ordinary skill in the art at the time the invention was made to include in the transaction request by Underwood RETA system so that it also include upgrade request so that an instantiated upgrade object can be retrieved from selective upgrade servers because in view of the version control by Underwood and request for change, the main purpose for managing changes and version as taught by Underwood is to enable having the latest available of software objects for a client request, and this upgrade distribution concept was a known concept in interconnected client/server subsystems as exemplified in Underwood's RETA system.

As per claim 9, Underwood does not expressly disclose an administrative interface class configured to instantiate an administrative object, the administrative object operable to provide an instantiated new object, the instantiated new object representing an updated implementation of the instantiated object. But in view of the change request for a change as presented by Underwood (e.g. *PVCS* - Fig. 75-76A; 77-83, 93-111 and related text) for an new object being re-persisted to a version control facility via a administrative action of a developer or user, the administrative class to instantiate a new object update version of a checked out older version is strongly implied if not disclosed. It would have been obvious for one of ordinary skill in the art at the time the invention was made to add to the instantiation of Java components by Underwood the administrative interface class to enable the creation of a new object being versioned checked-in as suggested from the *PVCS* system and ReTa request for a change interface as taught by Underwood, because for each concurrent user using a *PVCS* tool, an class interface created to enable the creation of a new component to substitute an older version, such administrative object would allow independence of possibly concurrent users acting of a database according to the

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LUW per context allocation and session non-dependency by Underwood (Fig. 1D, col. 22, lines 36-44; Fig. 15B-18A).

As per claim 10, this method claim corresponds to the framework claim 1; and includes all the limitations of claim 1; hence is rejected with the corresponding rejection as set forth therein.

As per claim 18, this claim corresponds to claim 9, hence is rejected with the corresponding rejection as set forth therein.

As per claims 19 and 27, these readable-medium claims correspond to claims 1 and 9, respectively; hence are rejected with the corresponding rejection as set forth therein.

12. Claims 2-8, 11-17 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Underwood, USPN: 6,704,873, as applied to claims 1, 10, and 19; further in view of Underwood, USPN: 6,697,825 (hereinafter Underwood_2)

As per claim 2, Underwood discloses comprising a portal module upgrade servlet class configured to instantiate Java objects using Java package, rationale case tools and ASP, HTTP markup metadata and browser/viewer for code development (see Fig. 47-48; col. 154 to col. 188; Fig. 66-71) but does not explicitly disclose a portal module upgrade servlet object, the a portal/gateway module upgrade servlet object operable to deliver a file to the update system object from the appropriate update server in the set of update servers. The limitation about delivering an upgrade instance of object via selected servers has been addressed in claim 1. Underwood_2, in a ReTA communication and development similar to Underwood, discloses API servlet at the server to instantiate CGI code and scripts (Fig. 67A; Fig. 70,71,73). It would have been obvious for one of ordinary skill in the art at the time the invention was made to add to the

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integration/developing using markup metadata methodology by Underwood, so to implement a upgrade servlet object made to deliver the upgrade object from the servers, because Underwood's gateway is a means to process request for selection of intermediate channels and unraveling/fulfilling of request specifications; and the developing of a API servlet would allow the gateway to provide interface instantiated dynamically during the session established with and accessible by the client so to enable a GUI-based update transaction without need for recompilation as intended from the browser/HTTP scheme from above.

As per claim 3, Underwood discloses a file delivered to the server includes a combination of: a class file, an image tile, a sound file and data information file (e.g. col. 154 to col. 188; Fig. 66-71- Note: parsing a HTTP script or markup metadata file implicitly discloses that such file includes combination of data information or image/sound or class file enclosed in tags).

As per claim 4, Underwood discloses comprising a dynamic loader class configured to instantiate a dynamic loader Object, the dynamic loader object operable to retrieve a set of classes (*viewer* – col. 271, line 21 to col. 281, line 57; Fig. 122, 123) for the updated implementation of the instantiated object.

As per claim 5, Underwood discloses comprising a loader class configured to instantiate a object, the loader object operable to provide the set of classes for the updated implementation of the instantiated object (see claim 3) but does not explicitly disclose a swappable object to provide a set of classes for the updated implementation of the intermediate object. But in view of the implementation of a wrapper (e.g. *IretavbActivity* ... 12306, 12302 – Fig. 122, 123), the presenting of set of classes to implement an intermediate object is strongly suggested. Hence,

the limitation of having a swappable object to provide a set of classes would also have been obvious in light of the rationale as set forth in claim 3 above.

As per claim 6, Underwood discloses the intermediate object replacing the reference to the current implementation of the instantiated object with a reference to the updated implementation of the instantiated object (e.g. col. 29, line 57 to col. 50, line 14; Fig. 123 -Note: wrapper and LUW, context object leading to mapping and activating/fetching of appropriate components reads on replacing reference in the intermediate object with the corresponding desired instance of object; Fig. 15A, 16A, 20B – Note: ASP object parsing of intermediate objects in the event based Activity reads on replacing event specification with correct object instantiated from database).

As per claim 7, the limitation as to the upgrade servlet has been addressed in claim 2. Further, Underwood discloses object operable to deliver a properties object to the update system object from the appropriate update sender in the set of update servers (e.g. Fig. 10-15A) while the limitation of upgrade servlet class to instantiate a upgrade servlet object has been addressed in claims 1 and 2. Hence, the servlet class for delivering properties to an upgrade server would also have been obvious.

As per claim 8, Underwood discloses the properties object includes a combination of the location of: a file, a class name of the updated implementation of the instantiated object, a title of the updated implementation of the instantiated object, a description of the updated implementation of the instantiated object, and an updated implementation of the instantiated object (e.g. col. 143, lines 20 to col. 144, line 17; Fig. 20B; Fig. 68-70; ; HTTP - col. 148-156 – Note: markup metadata with standard HTTP convention for presenting Java components with

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path and title, and related format description reads on object properties of instantiated upgrade object).

As per claims 11-17, these method claims correspond to claims 2-8 and include all the respective limitations therein; hence are rejected with the corresponding rejection as set forth therein.

As per claims 20-26, these readable-medium claims correspond to claims 2-8 and include all the respective limitations therein; hence are rejected with the corresponding rejection as set forth therein.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719.


The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence – please consult Examiner before using) or 703-872-9306 (for official correspondence) or redirected to customer service at 571-272-3609.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT

January 7, 2005



TODD INGBERG
PRIMARY EXAMINER